

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

MOBILE RELAY ASSOCIATES

To Operate on Frequency Pairs 451/456.0000 MHz,
451/456.00625 MHz and 451/456.0125 MHz at
Multiple Locations in the Los Angeles, Las Vegas, and
Miami Metropolitan Areas

) WT Docket No. 14-34
)
) Public Notice, DA 14-258
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)
)

To: Chief, Wireless Telecommunications Bureau

**REPLY COMMENTS FROM
MOBILE RELAY ASSOCIATES**

Mobile Relay Associates (“MRA”), by its attorneys and pursuant to the Public Notice, DA 14-258, released February 26, 2014 (“*Request for Comments Notice*”), hereby submits its Reply Comments in this proceeding. In response to the *Request for Comments Notice*, there were six filings submitted. Five parties, including MRA, submitted Comments in support of the Waiver Request.¹ There was one filing in partial opposition to the Waiver Request – the Society of Broadcast Engineers (“SBE”).² MRA herein responds to the SBE Comments.

As discussed herein, there is no reasonable likelihood of harmful interference to any BAS operation adjacent to a 4 kHz emission 451/456.0000 MHz operation.

¹ In addition to MRA, Comments in support were submitted by each of the Enterprise Wireless Alliance (“EWA”), the Forest Industries Telecommunications (“FIT”), Rebel Communications (“Rebel”) and Air Spectrum (“Air”).

² Although the SBE Comments were not explicit, SBE stated that its opposition was due entirely to the potential for “interference with the use of the BAS operations on adjacent channels.” SBE Comments, p.2. *See also id.*, Parts III & IV. Only one of the three channel pairs in the Waiver Request would be adjacent to BAS spectrum – specifically, the 451/456.0000 MHz channel. Accordingly, SBE did not oppose the Waiver Request insofar as it pertains to either 451/456.00625 MHz or 451/456.0125 MHz. *As to those two channel pairs, the Waiver Request is unopposed.*

I. 451/456.0000 MHz Spectrum Is Allocated for the Purpose Proposed Here by MRA

SBE makes multiple references to Section 2.106 of the Commission's Rules, implying that MRA would need a waiver of this rule as well as of Part 90 rules in order to be licensed on 451/456.0000 MHz. Indeed, the implication of SBE's Comments is that part of the spectrum represented by this channel pair is already allocated to Part 74. Such is not the case.

Under Section 2.106, the Table of Frequency Allocations, both the 450-454 MHz band and the 455-456 MHz band are allocated for "Land Mobile", expressly including, among others, Part 90 land mobile. Under that same section, the 456-460 MHz band is allocated for either "Fixed" or "Land Mobile", again, expressly including, among others, Part 90. Therefore, all of the spectrum pertaining to a 4 kHz-wide channel pair centered on 451/456.0000 MHz is already allocated in Part 2 for the exact purpose proposed here by MRA. No waiver of Part 2 is required, only a waiver of Part 90.

II. SBE Has Not Shown Any Reasonable Likelihood of Interference to BAS Users

SBE does not claim to be representing any specific BAS licensee; SBE does not even claim to have consulted with any specific BAS licensee in any of the three involved geographic areas, or to have studied the current BAS operations in any of these areas. Rather, SBE simply claims that because of the "adjacency", there is potential for harmful interference. Such a generalized claim, by a person that would not personally be affected, is not, in these circumstances, sufficient to overcome the *prima facie* case made by MRA in its Waiver Request.

Indeed, the SBE Comments in this proceeding, in their failure to cite even one existing BAS call sign that might be adversely affected, resemble to a large extent the opposition put forward by various GMRS interests in the analogous proceeding where the Commission granted a similar waiver request by MRA, *Mobile Relay Associates, Waiver to Permit PLMR Operation*

on *Part 90/95 Band Edges*, 29 FCC Rcd. 660 (Mobility Division, 2014). In that case, in rejecting the GMRS generalized claims of potential harm, the Commission explained:

We are not persuaded by commenters' concerns regarding interference to adjacent-channel GMRS operations. P. Randall Knowles contends that MRA's proposed operations will overlap and interfere with existing licensed GMRS operations on frequencies 462.5375 MHz, 462.7375 MHz, 467.5375 MHz, and 467.7375 MHz. Similarly, the Personal Radio Steering Group, Inc. contends that the "guardband" spectrum for which MRA seeks a waiver is appropriate and necessary to protect existing and future licensed GMRS operations. We disagree. Because MRA proposes to operate with a 4 kilohertz emission, there is no spectral overlap with adjacent-channel GMRS operations. When the current frequency designations were adopted, PLMR stations operated in wideband mode and the frequencies between PLMR and GMRS spectrum were could not be used without overlap. With the development of equipment with an occupied bandwidth of 4 kilohertz, PLMR stations can operate without causing harmful interference or impacting the use of adjacent GMRS spectrum.

Id., at ¶ 9 [footnote omitted]. That reasoning applies with equal force in this case.

III. There Is No Chance of Harmful Interference Due to Out-of-Band Emissions

SBE claims that despite MRA's use of the very-narrowband 4 kHz emission designator:

[A] significant potential remains for interference to BAS licensees that use these frequencies for news, live events, and emergency communications. This is particularly troublesome in the "spectrum-cramped" California, Nevada, and Florida metropolitan areas that the MRA Waiver Request would impact. Furthermore, not all BAS licensees are "fixed location" users. Itinerant users of these frequencies for various events, productions, and functions may not be able to resolve the interference prior to the event schedule.

SBE Comments, pp.4-5. The foregoing is SBE's entire elaboration of the supposed problem -- there is no explanation of how there could be harmful interference in the absence of spectral overlap. MRA presumes therefore that SBE must be referring to the problem of interference to BAS due to some potential inability of BAS receive equipment to filter out out-of-band emissions ("OOBE") of MRA's adjacent Part 90 channels.

Despite SBE's mention of pre-scheduled "events, productions and functions" as supposedly not being amenable to resolving interference prior to the event schedule, such events are precisely the type of events where resolution of interference prior to the event is not merely feasible, but easy to accomplish. The only situations where pre-event resolution would not be feasible would be "news, live events and emergency communications" involving itinerant BAS users. But even in these situations, the chance of harmful interference is virtually non-existent, because the involved itinerant BAS equipment is particularly well-adapted to filtering out and resisting OOB.

Specifically, in the Los Angeles metro area (as well as many other major metro areas in the United States), there are multiple broadcast licensees operating with a 10 kHz emission centered on 450/455.9800 MHz, and multiple *competing* broadcast licensees operating with the same 10 kHz emission centered on 450/455.9900 MHz. Whenever there is a breaking news event or emergency, all of these competing BAS licensees send their itinerant transmit/receive vehicles to the news/emergency location, where each of them begins transmitting and receiving, without any ability to pre-coordinate with each other, and in close proximity to each other.

Those operating on 450/455.9800 MHz occupy the spectrum up to 450/455.9850 MHz, and those operating on 450/455.9900 MHz occupy the spectrum down to 450/455.9850 MHz. In other words, although the multiple BAS licensees have no spectral overlap, neither do they have any spectral separation (or "guardband") whatsoever. In such circumstances, these operations in such close proximity (probably within a city block or two, during news events or emergencies) without pre-coordination would be impossible unless the involved BAS equipment "hears" only the transmissions on its own channel, and not those of adjacent BAS channels – that is, unless the involved BAS equipment is particularly well-adapted to filtering out and resisting OOB.

IV. MRA Has Met the Waiver Standard of Section 1.925 Here

SBE also claims that MRA has failed to meet the test for a waiver set forth in Section 1.925. SBE Comments, p.2.³ SBE is mistaken; MRA has met the standard set forth in that rule.

As SBE notes, the first prong of that rule is whether the underlying purpose of the rule to be waived would not be served (or would be undermined) by grant of the waiver. MRA showed that the underlying purpose of the rule is to preserve some degree of spectral separation between adjacent channel licensees operating under different Rule Parts, and that with the advent of commercially-viable very-narrowband 4 kHz equipment, the purpose of the rule is served (and certainly not undermined) by granting this waiver.⁴

As SBE also notes, the second prong of the rule is whether grant of the waiver would be in the public interest. Multiple commenters, including two FCC-certified frequency coordinating committees, have affirmed that a congestion emergency exists in Part 90 and that granting the requested MRA waiver is necessary to ameliorate that congestion emergency.⁵ As discussed in Parts II and III of these Reply Comments, *supra*, as well as in Part B of MRA's original Comments herein, and in Part III.A of the Waiver Request itself, there is no harmful interference to BAS operations and therefore no countervailing public interest consideration.

³ SBE also, *id.*, cites to several court and Commission decisions involving the Commission's waiver standard. However, SBE does not discuss how the facts of any of these cases relates to the instant proceeding, nor could it, because granting the MRA Waiver Request is consistent with all of those cases. Indeed, in the case chiefly relied upon by SBE, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir., 1969), the Court vacated a Commission decision denying a waiver request and remanded to the Commission to take a closer look at whether grant of the waiver was warranted.

⁴ FIT independently confirmed that with 4 kHz equipment, the rule's purpose of achieving spectral separation is preserved. FIT Comments, p.1.

⁵ See, e.g., EWA Comments, p.2; FIT Comments, p.1.

Finally, as SBE notes, Section 1.925 contains an alternative showing available to waiver applicants – that in view of unique or unusual factual circumstances of the case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative. MRA has met this alternative standard as well, having shown all of the following facts. There are no Part 90 unoccupied channel pairs available in these markets. MRA has lost its ability to use other channels licensed to MRA due to harmful interference from unlawful operators, and Congressional cutbacks have, as the Commission has admitted in Congressional testimony, hamstrung the Commission’s enforcement efforts. In Los Angeles and south Florida, the Commission has imposed a freeze on new applications for the 470-512 MHz band channels. (That band is not allocated for use in Las Vegas.) Patently, application of the rule here would be inequitable and unduly burdensome, and MRA has no reasonable alternative.

CONCLUSION

MRA has met the standard for grant of its requested waiver. Enforcement of the rule in this case is not needed to promote the rule’s purpose – maintenance of spectral separation between services. There is no public interest in leaving this spectrum fallow, and MRA has no alternative.

There is no opposition to the grant of MRA’s Waiver Request as to channel pairs 451/456.00625 MHz and 451/456.0125 MHz. The only issue in this proceeding pertains to channel pair 451/456.000 MHz, and as to that channel, the support for MRA’s Waiver Request was substantial – every commenter but one favored it.

MRA’s proposed use of the spectrum is already authorized under Part 2 of the Rules. There is virtually no chance of harmful interference to incumbent BAS licensees operating

adjacent to channel pair 451/456.000 MHz. Accordingly, MRA's Waiver Request should be granted in full.

Respectfully submitted,
MOBILE RELAY ASSOCIATES

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